

ARTICLE APPEARED
ON PAGE A-1

NEW YORK TIMES
3 APRIL 1982

Reagan Order Tightens the Rules On Disclosing Secret Information

By HOWELL RAINES

Special to The New York Times

WASHINGTON, April 2 — President Reagan signed an executive order today giving Government officials broader authority to withhold information from the public on grounds of national security.

Administration spokesmen said the new Executive Order on National Security Information would also make it

Excerpts from the order, page 9.

more difficult for judges to declassify information sought under the Freedom of Information Act.

The order reverses a 25-year trend toward a less restrictive Government information policy. It supersedes an order signed by President Carter in 1978 that Reagan Administration officials regarded as too lenient.

Specific Changes Imposed

Specifically, the Reagan order does these things:

¶ It eliminates a requirement in the Carter order that Government officials must consider the public's right to know before classifying information as "top secret," "secret" or "confidential."

¶ It eliminates a Carter requirement that such classifications must be based on "identifiable" potential damage to the national security.

¶ It requires that classifying officials, when in doubt, must use the highest

level of secrecy rather than the lowest, as provided in the Carter order.

In a statement released today by the White House, Mr. Reagan said, "The order enhances protection for national security information without permitting excessive classification of documents by the Government."

He said the new order achieved the "proper balance" between the public's right to information and the Government's security needs.

"It is essential," he said, "for our citizens to be informed about their Government's activities, but it is also essential to protect certain sensitive information when disclosure could harm the security of all our citizens."

The statement continued: "The order expressly — and properly — prohibits use of classification to hide violations of law, inefficiency or administrative error, to prevent embarrassment to a person, organization or agency, to restrain competition or to prevent or delay the public release of information that does not require national security protection."

Reaction to the President's tightening of the classification rules divided along partisan lines. Senator Barry Goldwater, Republican of Arizona, the chairman of the Select Committee on Intelligence, called the order a "big improvement" over the Carter directive. But Senator Walter D. Huddleston of Kentucky, a Democratic member of the committee, said it presented "a serious danger of overclassification and excessive secrecy in Government."

Senator Daniel Patrick Moynihan, Democrat of New York, the committee's vice chairman, criticized the deletion of the standard of "identifiable harm."

"Without that standard," he said, "judgments in these matters become idiosyncratic."

Stronger Defense in Lawsuits

Administration officials said the new order would strengthen the Government's position against lawsuits brought under the Freedom of Information Act.

"The judges should not be deciding for themselves what information ought to be classified," said one of three Administration officials who discussed the new order with reporters today on the condition that they not be identified.

Carter provisions such as the one on "identifiable" damage provided a legal foothold for judges to rule that classified documents ought to be released, this official said. The Administration position, he said, is that the President, not trial judges, ought to have the final word in security matters.

"The power of the court to look at the documents is not changed by the revisions in the executive order," the official said. But, he added, the Administration will now find it "easier to prove that a document is properly classified in a judicial setting."

Under the Reagan changes, for example, the Government will be relieved of the legal requirement of considering the public's right to information before imposing a classification. The official said that this, in turn, would make it simpler to defend that classification in court.

Stiffer Rules Defended

The official acknowledged that even with the more lenient Carter rules, the Government never lost a court case on classification. But the stiffer rules are needed, he said, because "we want to keep it that way."

Another Reagan provision assailed by critics is the 30-day rule imposed on Government officials who lack the authority to classify material but who have reason to believe that they possess sensitive information or documents.

"If there is reasonable doubt about the appropriate level of classification," the Reagan order asserts, "it shall be safeguarded at the higher level of classification pending a determination by an original classification authority, who shall make this determination within 30 days."

In practice, said Alan Adler, a lawyer at the Center for National Security Studies, which opposes the new order, this provision could give a Government employee justification for withholding, at least temporarily, information requested by Congress or journalists.

The Reagan order expands from seven to 10 the number of categories of classifiable information. This more detailed classification, the Administration officials said, will make it easier for the Government to defend its decisions in court.